

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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DAVID RUSSELL,

Plaintiff,

DECISION AND ORDER

09-CV-6641L

v.

JADA RAO, MD,  
ABBASEY, MD,

Defendants.

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On or about June 24, 2010, the Clerk of Court noted an entry of default (Dkt. #7) because the defendants had failed to answer or otherwise respond to the complaint. Four days later, the defendants appeared by counsel and filed their answer (Dkt. #9) that same day.


Thereafter, defendants moved to vacate the entry of default (Dkt. #13). Plaintiff has filed a motion (Dkt. #12) for what he describes as a “default hearing.”

Defendants obviously did not intend to default here and such was cured within a matter of days. Based on the declaration (Dkt. #16) submitted in support of defendants’ motion to vacate entry of default, it is clear that defendants believe they have a meritorious defense.

CONCLUSION

Defendants' motion (Dkt. #13) to set aside entry of default is granted and such entry is vacated.

IT IS SO ORDERED.



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DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
August 12, 2010.